



Docket No. 60,469-055

IPW
AF
3679

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Traktovenko, et al.
Serial No.: 10/036,678
Filed: 12/21/2001
Group Art Unit: 3679
Examiner: Flandro, Ryan M.
Title: ELEVATOR LOAD BEARING TERMINATION ASSEMBLY

REPLY BRIEF

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is in reply to the Examiner's Answer mailed on May 4, 2004.

Neither the *Schmidt* reference nor the *Brendel* reference disclose extruded pieces and, therefore, there is no anticipation. The Examiner never contends that either one of those references discloses or suggests an extruded piece. Instead, the Examiner contends that the term extruded is, "not germane to the issue of patentability" and was only given "little, if any, patentable weight." The Examiner cannot conveniently read out a term from the claim in an attempt to establish anticipation.

The term "extruded" is a structural limitation in that it defines the type of structure of the claimed elements that are recited as "extruded." The point that Applicant made by citing to MPEP 2113 was not to argue whether the term could be construed as a product-by-process limitation (as it

obviously is not such a limitation), but instead was to point out that terms such as extruded have long been recognized as providing a structural limitation that can distinguish from prior art teachings. In this application, the recitation of an extruded wedge or an extruded socket distinguishes the recited structure from the structures shown in the *Schmidt* and *Brendel* references. There is no anticipation.

Another, independently dispositive reason why there is no anticipation is that the Examiner is incorrect about the “oppositely facing engaging surfaces.” The Examiner wrongly contends that claim 13 does not require oppositely facing engaging surfaces engaging a cable (the structure of the *Schmidt* reference includes a cable). Claim 13 requires that the extruded socket portion has “oppositely facing engaging surfaces” and an extruded wedge portion received at least partially within the socket portion “such that a portion of the elongated load bearing member is received between the engaging surfaces of the socket portion and the wedge portion.” That claim language clearly recites an engaging and an orientation relationship between the engaging surfaces of the socket portion, the wedge portion that is at least partially received within the socket portion and a load bearing member received between the wedge portion and the engaging surfaces of the socket portion. The Examiner’s position that the oppositely facing engaging surfaces “only engage something” ignores the claim language.

Moreover, *Schmidt* does not show a portion of the cable 62 received “between *the engaging surfaces 20 of the socket portion 11 and the wedge portion 52.*” (Examiner’s Answer, pages 9-10). The left wall 20 is part of the wedge and not part of the socket. Therefore, the Examiner’s argument in this regard is unfounded.

With regard to the rejection of claims 17 and 26 based upon the *Brendel* reference, the Examiner's alternate positions ignore the express teachings of that reference. If one is to interpret that reference as having openings as recited in claims 17 and 26, those openings must be situated in a manner for a tool to be received into the openings and utilized to manipulate the wedge portion relative to the brace. Once the bolt 11 of the *Brendel* reference, which is received in the opening 10, for example, is engaged by the curved surface 14, the wedge 9 is locked relative to the brace 12 such that no further movement is possible. Accordingly, once the "openings" of the *Brendel* reference are situated for a tool to be received into them (i.e., when they are aligned in the locked position), there is no ability for manipulating the wedge 9 relative to the brace 12. The "openings" of the *Brendel* reference cannot be situated as required by the claim.

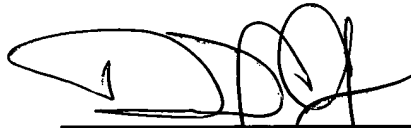
If one were to interpret the bolt 11 of the *Brendel* reference as the claimed tool, that would require the bolt 11 to be engaged by the curved surface 14 and the opening 10 at the same time and still be able to be used for manipulating the wedge 9 relative to the brace 12. As expressly taught in the *Brendel* reference, once the curved surface 14 engages the bolt 11, the wedge 9 is locked in place and no further movement (i.e., no relative manipulation) is possible. The fact that the bolt 11 can slide within the opening 10 before the clamp is locked does not support the Examiner's position. The *Brendel* reference clearly describes the sliding movement of the bolt 11 within the opening 10 to accommodate cables of different diameters. Once that bolt 11 is engaged by the curved surface 14, no further movement occurs and any sliding of the bolt 11 within the opening 10 is no longer possible. Any sliding of the bolt 11 within the opening 10 occurs to allow the curved surface 14 to grab onto the bolt 11 when different sizes of cables are wrapped around the wedge 9.

The Examiner properly withdrew the rejection of claims 17 and 26 under 35 U.S.C. §103. The Examiner should also have withdrawn the rejection under 35 U.S.C. §102(b) based upon the *Brendel* reference.

Applicant submits that the remaining rejections must be reversed as neither of the references relied upon by the Examiner can be fairly interpreted in a manner to anticipate the rejected claims. The Examiner's positions improperly ignore at least some of the claim language and there is no anticipation.

Respectfully submitted,

CARLSON, GASKEY & OLDS, P.C.

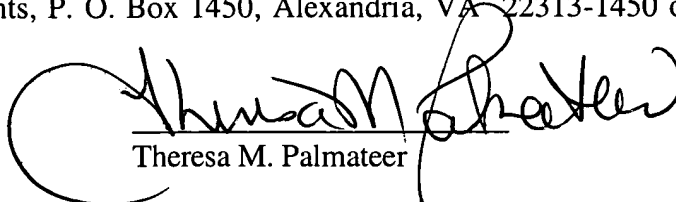


June 4, 2004
Date

David J. Gaskey
Registration No. 37,139
400 W. Maple, Suite 350
Birmingham, MI 48009
(248) 988-8360

CERTIFICATE OF MAIL

I hereby certify that the enclosed **Reply Brief (in triplicate)** is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop AF, Commissioner For Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on June 4, 2004.



Theresa M. Palmateer

N:\Clients\OTIS ELEVATOR\IP00055\PATENT\Reply Brief 6-4-04.doc